

1 BEFORE THE  
2 FLORIDA PUBLIC SERVICE COMMISSION

3 In the Matter of:

4 DOCKET NO. 20160165-SU

5 APPLICATION FOR STAFF-ASSISTED  
6 RATE CASE IN GULF COUNTY BY  
7 ESAD ENTERPRISES, INC. D/B/A  
8 BEACHES SEWER SYSTEMS, INC.  
9 \_\_\_\_\_/

10 PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
11 ITEM NO. 8

12 COMMISSIONERS  
13 PARTICIPATING: CHAIRMAN JULIE I. BROWN  
14 COMMISSIONER ART GRAHAM  
15 COMMISSIONER RONALD A. BRISÉ  
16 COMMISSIONER DONALD J. POLMANN

17 DATE: Thursday, September 7, 2017

18 PLACE: Betty Easley Conference Center  
19 Room 148  
20 4075 Esplanade Way  
21 Tallahassee, Florida

22 REPORTED BY: LINDA BOLES, CRR, RPR  
23 Official FPSC Reporter  
24 (850) 413-6734  
25

## P R O C E E D I N G S

1  
2           **CHAIRMAN BROWN:** All right. Moving on to our  
3 last item, which is Item 8.

4           **MR. ELLIS:** Good morning, Commissioners.  
5 Phillip --

6           **CHAIRMAN BROWN:** Just one moment while we're  
7 getting organized here. Thank you.

8           **MR. ELLIS:** Good morning, Commissioners.  
9 Phillip Ellis with Commission staff.

10           Item 8 is Beaches Sewer Systems' request for a  
11 staff-assisted rate case. This item was originally  
12 scheduled for the July agenda but was deferred to allow  
13 staff time to correct a calculation error.

14           Beaches is a wastewater only Class C utility  
15 in Gulf County with approximately 320 customers using a  
16 flat monthly rate. Its last rate case was approximately  
17 30 years ago, in 1987, and ownership of the utility was  
18 transferred to the current owner 15 years ago, in 2002.

19           Based on staff's review of the utility's data  
20 for the test year, we recommend an increase in the  
21 revenue requirement of approximately 34.35 percent, or  
22 \$45,000 annually. Customers would see an increase of  
23 approximately \$10.83 per monthly bill.

24           Staff is also recommending that Phase 2 pro  
25 forma be addressed in a future proceeding in the same

1 docket to reduce the utility's rate expense and allow  
2 the utility time to complete projects and submit final  
3 invoices to staff. Noticing requirements are already  
4 included in the staff's calculations for the revenue  
5 requirement.

6 During the course of this proceeding, staff  
7 received four letters from customers, one of which had  
8 nine signatories, expressing concerns regarding the  
9 amount of the rate increase. The utility is present and  
10 has indicated to staff it wishes to address the  
11 Commission. Staff is prepared to answer any questions  
12 you may have.

13 **CHAIRMAN BROWN:** Thank you.

14 Would the utility like to address the  
15 Commission?

16 **MR. SEIFERT:** Yes. My name is Frank Seifert.  
17 I'm president and majority owner of the utility.

18 **CHAIRMAN BROWN:** Wait. Can you leave this on?  
19 Mr. Baez, can you please leave this on?

20 (Interruption.)

21 Thank you. Is it on?

22 **COMMISSIONER BRISÉ:** Yes.

23 **CHAIRMAN BROWN:** Okay. Continue, please.

24 **MR. SEIFERT:** Thank you. I have two concerns  
25 with the staff recommendation. One is my salary, which

1 they have recommended to be less than \$20 an hour. But  
2 I can go out and hire somebody to fix my fence, to clean  
3 out the ponds, and pay them \$41 an hour. And I think  
4 that my time is, is worth more than \$20 an hour.

5 We don't have any employees other than my  
6 partner and myself. If something happens, we got to fix  
7 it. A good example was Saturday, a holiday weekend,  
8 2:30 in the afternoon I got a call. Our lift station  
9 was down. I couldn't pick up the phone and call Joe  
10 Blow and say, "Go fix it. You work for us." No. I had  
11 to jump in my truck, go out there and spend the next  
12 five and a half hours getting it back up and running.

13 And many times during that time I thought,  
14 "Golly, if I could clean out the ponds, I could make  
15 \$41 an hour." Doing this on a Saturday, I don't make  
16 overtime. I virtually make less than \$20 an hour, and I  
17 think that's unfair.

18 And I realize that it's a big increase, but  
19 the utility has not gone up for 30 years. We're still  
20 going to be below what the City of Port St. Joe charges  
21 for sewer. We're still way below what the City of  
22 Mexico Beach charges. We don't get hardly any  
23 complaints about our service. The complaints that we  
24 have gotten is that people think that this increase is  
25 too much. But if you spread it out over the 30 years,

1 it's less than 2 percent a year. So I think it's  
2 justified.

3 My other comment is this was my first time to  
4 go through a rate case, and the staff-assisted, I was a  
5 little upset that I could not sit down in person and  
6 talk with the people coming up with these figures to,  
7 one, to figure out how they're coming up with the  
8 figures and justifying them or how I should offer more  
9 information that would justify information.

10 I mean, they looked at what we presented. A  
11 good example is we need a generator, and so they took  
12 the lowest bid generator. Well, that's fine except that  
13 will run a lift station but it won't run our plant. So  
14 what good is it, you know? We need a bigger generator.  
15 And if I could have sat down and discussed it with them,  
16 I think that would have been a big help to us and to  
17 them. Thank you.

18 **CHAIRMAN BROWN:** Thank you for your comments.

19 Office of Public Counsel, would you like to  
20 address the Commission?

21 **MS. PONDER:** Yes. Good morning, Madam  
22 Chairman. Virginia Ponder for OPC.

23 And we don't oppose the staff recommendation.  
24 I was here simply to comment. It was our understanding  
25 that staff has commenced the rulemaking process to

1 address the use of the operating margin. And I just  
2 wanted to again express that we appreciate that effort  
3 and that it's been a long time coming, and OPC looks  
4 forward to participating as staff finalizes its rule.

5 **CHAIRMAN BROWN:** Excellent. And I know we  
6 will be talking about that briefly in Internal Affairs  
7 today and where we are with regard to the rulemaking.

8 **MS. PONDER:** Okay. Excellent. Thank you.

9 **CHAIRMAN BROWN:** Thank you.

10 All right. We're going to bring it back to  
11 the Commissioners for questions. Commissioners, any  
12 questions on any of the issues presented or the comments  
13 that were put forth today by the utility?

14 Commissioner Polmann.

15 **COMMISSIONER POLMANN:** Thank you, Madam  
16 Chairman.

17 Is it Mr. Seifert?

18 **MR. SEIFERT:** Seifert.

19 **COMMISSIONER POLMANN:** Thank you, sir. A few  
20 comments in response. You brought up the issue of  
21 salaries, sir, so I'll respond on that. And I'm not  
22 sure I have a question, but I will respond, and I'll put  
23 it in this context. I understand you're a majority  
24 owner based on your comments; is that correct?

25 **MR. SEIFERT:** Correct.

1                   **COMMISSIONER POLMANN:** And not to argue the  
2 point, but from my perspective, as owner and president,  
3 if I understand it correctly, you're taking a salary; is  
4 that correct?

5                   **MR. SEIFERT:** Correct.

6                   **COMMISSIONER POLMANN:** You're not paying  
7 yourself by the hour.

8                   **MR. SEIFERT:** No. I would like to make a  
9 comment about that, though. So far this year I have not  
10 been able to take a salary because we have not had the  
11 money. We've had some unusual expenses and basically we  
12 have worked for free. But being the owner of the  
13 company, that happens.

14                   **COMMISSIONER POLMANN:** Well, that's exactly  
15 where I'm going with this, and I appreciate that  
16 additional information. Because there are many small  
17 businesses, and I may -- if I may describe your  
18 operation in a small business context, that being an  
19 owner of a small business, you take responsibility for  
20 that and that comes with some associated risks. It's a  
21 business risk.

22                   Now if -- because of the nature of the  
23 business you're coming here to recover costs, and if you  
24 are able to demonstrate that there are costs that you're  
25 under-recovering, that's part of the rate case analysis.

1 But in the context of operating a business and taking a  
2 salary, you have both responsibility and a risk. And  
3 you're not paying yourself by the hour, you're taking a  
4 salary, and this is not an hourly issue.

5 And to the point of describing yourself as  
6 being paid \$20 an hour, quite frankly, sir, that's  
7 irrelevant. I'll simply state that I've taken a salary  
8 for 30 years. I don't work by the hour. I don't work  
9 here by the hour. I've never worked by the hour since I  
10 was about 18 years old. So I hear your comment. That's  
11 all I'll say on that issue.

12 Now in terms of referencing \$41 an hour for  
13 outside, that's a contractor. They either work by the  
14 hour or they work by the task. If you want to hire a  
15 contractor on an as-needed basis or have an agreement  
16 with them to come in, then please provide that  
17 information and that will be considered. If you want to  
18 compare yourself on some cost basis to a contractor,  
19 then there's an opportunity for us to consider that as  
20 an alternative. I don't understand that that  
21 information has been provided for consideration here.  
22 So I'm listening to you and I hear what you're saying,  
23 but if we don't have that information, I don't believe  
24 it should be considered. Now if it was provided, then I  
25 would expect it was considered and there was a judgment



1 made on that.

2 Now to the extent that you did not have an  
3 opportunity to participate, we can review that with  
4 staff in terms of procedure.

5 As to the generator not being appropriate for  
6 your entire need, perhaps that can be reviewed and  
7 discussed, and we will do that as appropriate. I'm  
8 sorry if that's the case. And I do understand if a  
9 larger generator would be appropriate. I understand  
10 that having a pump station operate and the plant not  
11 being able to operate seems to be a disconnect, you  
12 know. If there's a major cost difference from one to  
13 the other, that logically should be addressed.

14 Another concern I have, Madam Chairman, if I  
15 may --

16 **CHAIRMAN BROWN:** Yes, please.

17 **COMMISSIONER POLMANN:** -- on another issue,  
18 there's a question of quality of operations that I  
19 discussed with staff, and that has to do with compliance  
20 with regulatory requirements. And I'll have a question  
21 directed to either you or to staff at this point, and  
22 that is in comments from Mr. Ellis at the opening it was  
23 indicated that you took ownership or your group took  
24 ownership ten years ago. Is that correct?

25 **MR. SEIFERT:** It's been more than ten years,

1 yes. Seventeen.

2 **COMMISSIONER POLMANN:** Okay. Mr. Ellis, do we  
3 have information that there were -- or what information  
4 do we have on the regulatory history during the time  
5 that Mr. Seifert and his company have owned, owned this  
6 utility? What information do we have on regulatory  
7 compliance during that time? I understand we're  
8 reviewing a period of time in the SARC, but what's the  
9 time frame for review on regulatory compliance?

10 **MR. ELLIS:** For regulatory compliance with DEP  
11 in other matters we look back five years. From my  
12 understanding, only the last two reports have had issues  
13 with DEP as outlined in Issue 1.

14 **COMMISSIONER POLMANN:** Okay. And is there a  
15 current issue being addressed on the percolation ponds?

16 **MR. ELLIS:** I believe the only item that is  
17 currently out of compliance, my understanding it's being  
18 worked with by the utility and DEP, is strictly the  
19 rotation of ponds.

20 **COMMISSIONER POLMANN:** And do we anticipate  
21 that that will be resolved in the near future, meaning  
22 within the year or less?

23 **MR. ELLIS:** I believe the utility may be  
24 better suited to answer that.

25 **COMMISSIONER POLMANN:** Okay.

1           **MR. ELLIS:** But from my understanding, the pro  
2 forma -- part of the pro forma request included items  
3 associated with that.

4           **COMMISSIONER POLMANN:** Mr. Seifert, can you  
5 address the remedy for the percolation ponds?

6           **MR. SEIFERT:** The remedy -- there's two  
7 remedies. One, we're supposed to rotate the ponds for a  
8 week at a time. We've got three ponds, so every three  
9 weeks a pond will be used. Our lines are not working,  
10 so at the present time only one pond is getting used.

11           DEP came up with a suggestion, which we're  
12 doing, in fact, we're doing it this week, and that we  
13 could pump it from our one pond to the other pond by  
14 pump. Of course, this will take more time, but that  
15 would rotate it. They're coming to inspect us next  
16 Friday to see how it's working.

17           **COMMISSIONER POLMANN:** Now is that considered  
18 a temporary --

19           **MR. SEIFERT:** They said we could do it like  
20 that forever, which surprised me. But if not, we're  
21 going to have to dig up all our lines and find out why  
22 they're not working. And they're not working because  
23 they have been broken or because turtles have gotten in  
24 there, you know, and clogged them up.

25           **COMMISSIONER POLMANN:** Sure. Okay. Now will

1 that utilize two of your ponds or all three?

2 **MR. SEIFERT:** We could be able to use all  
3 three of the ponds.

4 **COMMISSIONER POLMANN:** Okay. Well, from an  
5 environmental resource management and so forth, that's  
6 of concern to me. And I would look forward to that  
7 being reported back to the staff in terms of how that's  
8 being resolved. So I'll simply ask you and staff to  
9 coordinate on that. I mean, I understand how the ponds  
10 work from my professional background and what the intent  
11 is. And the one week of loading and then two weeks of  
12 out of service, you know, as you said, is the way  
13 they're intended to work. And the fact that you're  
14 using one as a continuous loading is not the way it's  
15 intended. So I'm glad DEP is addressing that. And, you  
16 know, pumping from one to the other is a logical  
17 resolution. Whether it's permanent or not, it'll work.  
18 It's a cost issue and so forth. But please have that  
19 addressed and coordinate with staff.

20 **MR. SEIFERT:** I will do that.

21 **COMMISSIONER POLMANN:** All right. Madam  
22 Chairman, that's all I have. Thank you.

23 **CHAIRMAN BROWN:** Thank you. Just a follow-up  
24 question from Commissioner Polmann on the as-needed  
25 contractor that seems to be -- that would have -- I

1 mean, it would have been nice for something like that to  
2 be considered given the scope of the utility and the  
3 fact that they have two employees, the president and the  
4 vice president.

5 Did staff ask about an as-needed contractor,  
6 something that, similar to what Mr. Seifert was talking  
7 about?

8 **MR. BROWN:** Ma'am, there's actually one  
9 included in the rates or the revenue requirement that  
10 staff came up with. I don't know whether it's a  
11 part-time plant operator or what the actual cost --

12 **CHAIRMAN BROWN:** I saw that on page 15 of the  
13 recommendation under contractual services other.

14 **MR. BROWN:** Correct.

15 **CHAIRMAN BROWN:** I saw that it's a thousand  
16 dollars a month.

17 **MR. BROWN:** I think it might actually be more  
18 than that now. I think we included 1,100 a month for  
19 that. But they -- the utility provided a contract for  
20 that individual.

21 **CHAIRMAN BROWN:** So, Mr. Seifert, would  
22 that -- would his scope of services, would that have  
23 been something that could have been helpful on Saturday?

24 **MR. SEIFERT:** No. He's the, the operator of  
25 the plant. His job is to make sure that it's processing

1 correctly. He has to go there every day, do the test,  
2 check the lift station.

3 **CHAIRMAN BROWN:** He doesn't do maintenance?

4 **MR. SEIFERT:** He does not do any of the  
5 maintenance, no.

6 **CHAIRMAN BROWN:** I think that the utility  
7 owner has, has a point and it is something that the  
8 utility could benefit from. Would -- does staff agree  
9 with that assessment based on the discussions and  
10 revelations of, of -- discussed here today?

11 **MR. BROWN:** I would agree in general, but  
12 that's just -- that's not the information that we had at  
13 the time of processing the staff-assisted rate case. We  
14 knew all the way through that it's essentially a utility  
15 that has three part-time employees: The president, the  
16 vice president, and the contract operator.

17 **CHAIRMAN BROWN:** I mean, this company hasn't  
18 been in for 30 years.

19 **MR. BROWN:** Correct.

20 **CHAIRMAN BROWN:** And obviously this is his  
21 first time here. Could -- I'm just looking at some  
22 critical dates. Could we benefit from assessing that  
23 instead of having the utility come back in a limited  
24 proceeding or something to that effect to address that  
25 need?

1           **MR. BROWN:** It was actually something we could  
2 probably address in the pro forma portion of this  
3 docket. We've got an issue, I believe it's Issue 16,  
4 that addresses pro forma plant items.

5           **CHAIRMAN BROWN:** Uh-huh.

6           **MR. BROWN:** That may be something that we  
7 could take up because there are several pro forma O&M  
8 items.

9           **CHAIRMAN BROWN:** Okay.

10          **MR. BROWN:** Maybe we could take that up as a  
11 pro forma O&M in the future.

12          **CHAIRMAN BROWN:** Okay. So then just maybe  
13 proceed as is.

14          **MR. BROWN:** Yes, ma'am.

15          **CHAIRMAN BROWN:** With staff direction to  
16 consider that under pro forma.

17          **MR. BROWN:** Right. Because as it stands right  
18 now, the pro forma items, we're basically saying there's  
19 a need for these pro forma items. We don't have a great  
20 deal of confidence in some of the estimates simply  
21 because some of the estimates are old. But that may be  
22 an opportunity for the utility to provide us some  
23 additional information on what an additional contract  
24 operator or maintenance person, what that would look  
25 like, what those costs would look like, and then we

1 could possibly include that in the pro forma.

2 **CHAIRMAN BROWN:** I think that's a great  
3 recommendation.

4 **MR. BROWN:** Okay.

5 **CHAIRMAN BROWN:** Thank you, Mr. Brown.  
6 Commissioners? Commissioner Polmann, I see  
7 you have your light on.

8 Just one comment I wanted to make on the --  
9 utilizing the operating ratio methodology. And it's  
10 something that I'm paying attention to as well as Office  
11 of Public Counsel is. This is an instance where I think  
12 it is appropriate. I don't have a problem with staff's  
13 analysis of it, and I just wanted to state that clearly  
14 on the record.

15 Commissioner Polmann.

16 **COMMISSIONER POLMANN:** Simply a comment to  
17 support Mr. Brown's response on coming back on the  
18 operation and maintenance. Percolation ponds are part  
19 of the plant.

20 **CHAIRMAN BROWN:** Okay. Did you hear that?

21 Okay. All right. We're ripe for a motion at  
22 this juncture. Commissioners, can I please get a motion  
23 on this item?

24 **COMMISSIONER POLMANN:** Move approval of all  
25 issues in staff's recommendation.



1           **CHAIRMAN BROWN:** Okay. Is there a second?

2           **COMMISSIONER BRISÉ:** Second.

3           **CHAIRMAN BROWN:** Any further discussion?

4           Seeing none, all those in favor, say aye.

5           (Vote taken.)

6           Motion passes.

7           Thank you. Thank you for coming up here.

8           All right. That concludes our agenda. We do  
9           have Internals Affairs, which -- and we have a special  
10          guest there. So we will meet there in five minutes in  
11          the IA room. Let's just say, so that they get set up,  
12          at 10:55.

13                   And before I adjourn, I just want to again  
14           encourage you folks to get prepared for Hurricane Irma.  
15           It is a life-threatening event. Thank you so much.  
16           This concludes our Agenda Conference.

17                   (Agenda Conference adjourned at 10:48 a.m.)

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1 STATE OF FLORIDA )  
 : CERTIFICATE OF REPORTER  
2 COUNTY OF LEON )

3  
4 I, LINDA BOLES, CRR, RPR, Official Commission  
5 Reporter, do hereby certify that the foregoing  
6 proceeding was heard at the time and place herein  
7 stated.

8 IT IS FURTHER CERTIFIED that I  
9 stenographically reported the said proceedings; that  
10 the same has been transcribed under my direct  
11 supervision; and that this transcript constitutes a  
12 true transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,  
14 employee, attorney or counsel of any of the parties,  
15 nor am I a relative or employee of any of the parties'  
16 attorney or counsel connected with the action, nor am I  
17 financially interested in the action.

18 DATED THIS 18th day of September, 2014.

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